

REMARKS

The Examiner rejected claims 1-3. Applicants have amended claim 1. Claims 1-3 are now pending.

The Examiner rejected claims 1-3 pursuant to 35 U.S.C. § 102(b) as being anticipated by Eggers (U.S. 5,630,426). Applicants traverse the rejection for the following reasons.

As previously discussed, Eggers relates to a device and a method for carrying out an in-situ characterization of tissues, wherein malignant tissue and benign tissue are distinguished based on the measured properties of the tissue. In a preferred embodiment, the characterization of the tissue is carried out by measuring the electrical properties of the tissue, e.g., the electrical impedance. Specifically, Eggers uses the measurable differences of one or more electromagnetic properties (for example, electrical impedance) of the normal or malignant tissue for in-situ discrimination and assessment of the degree of malignancy and the resulting decision for treatment. The actual treatment of the malignant tissue is carried out by inducing cauterization through heating the tissue.

Eggers, however, does not disclose “identifying any pathologically changed tissue parts in the area of body tissue by identifying those tissue parts that provide no stimulus response or an unexpected stimulus response, *wherein the response identified is a change to the body’s functioning a bodily reaction distinct from the properties of the body tissue being stimulated,*” as required by amended independent claim 1. Rather, Eggers identifies a malignant tissue part by identifying a tissue part having a certain electromagnetic property, such as a certain electrical impedance.

The Examiner’s discussion of paragraph 19 of Applicants’ application publication confuses the issue. Claim 1 requires identifying a stimulus response “distinct from the properties of the body tissue being stimulated” A stimulus response could be hearing loss or tremors or any number of responses, but the stimulus response must be “distinct from the properties of the body tissue being stimulated” The electrical impedance of an object, on the other hand, is by definition the object’s preexisting resistance to the flow of electrical current. *Thus, electrical*

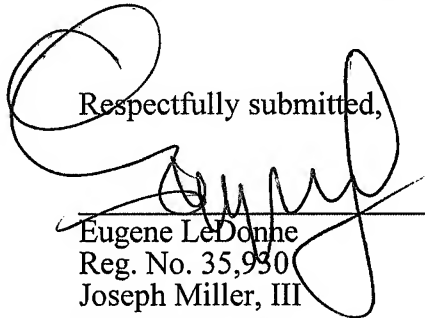
impedance is a property of body tissue. Accordingly, Eggers' disclosure of measuring the impedance of body tissue does not disclose identifying a stimulus response "distinct from the properties of the body tissue being stimulated"

Applicants have further distinguished claim 1 by specifying that the stimulus response must be "*a change to the body's functioning* distinct from the properties of the body tissue being stimulated" A tissue's impedance—it's preexisting resistance to the flow of electrical current—is not a change to the body's functioning. It is a constant property of the body tissue being stimulated.

For these reasons, Eggers does not disclose all the limitations of claim 1, and therefore Eggers does not anticipate claim 1 or dependent claims 2 or 3. Accordingly, Applicants request withdrawal of the rejection.

Based on the foregoing, it is believed that claims 1-3 are in condition for allowance. Accordingly, Applicants respectfully request that claims 1-3 be allowed and that the application be passed promptly to issue.

Respectfully submitted,



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